



**STATE OF MONTANA  
DEPARTMENT OF CORRECTIONS  
POLICIES AND PROCEDURES**

Policy No.: DOC 1.8.2	Subject: <b>VICTIM-OFFENDER DIALOGUE</b>
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 10, including 3 Attachments
Section 8: Victim Services	Revision Date:
Signature: /s/ Bill Slaughter, Director	Effective Date: December 13, 2004

**I. POLICY:**

The Montana Department of Corrections provides Victim-Offender Dialogue opportunities to victims of crime perpetuated by convicted felons within the State of Montana.

**II. IMPLEMENTATION:**

This policy will be implemented on the effective date.

**III. AUTHORITY:**

<i>DOC Policy 1.1.1</i>	<i>Purpose, Mission and Management Philosophy</i>
<i>DOC Policy 1.7.1</i>	<i>Volunteers and Internships</i>
<i>DOC Policy 1.8.1</i>	<i>Victim Rights and Notification</i>
<i>DOC 2004-2005</i>	<i>Goals and Objectives</i>

**IV. DEFINITIONS:**

Crime Victims Advisory Council – The volunteer board appointed by the Department Director that is composed of crime victims, and others closely associated with crime victims, to provide the Department with direction on policy and legislation affecting victims of felony crime.

Department – The Montana Department of Corrections.

Facilitator – A trained mediator who meets the Department's requirements to facilitate a Victim-Offender Dialogue.

Offender – Any adult convicted of a felony crime in Montana who is, or has been, under the supervision of the Department.

Pilot Program – The initial Victim-Offender Dialogue Program approved by the Department's Management Team and limited to the first 12 qualifying cases.

Victim – The person against whom a felony crime has been committed, or a family member of that person. Other individuals may be considered victims on a case-by-case basis.

Victim Information Officer – A staff member at a Department facility designated to provide information and advocacy services for crime victims.

Victim Information Specialist – A Director's Office staff member designated to oversee all victim services for victims of offenders under Department supervision.

Volunteer Coordinator – The individual designated by the Victim Information Specialist to coordinate the Victim-Offender Dialogue process.

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Victim-Offender Dialogue (VOD) – The process that brings together a victim and offender under the direction of a neutral facilitator.

## **V. PROCEDURAL GUIDELINES:**

The Victim-Offender Dialogue program will reflect the Department's mission statement and goals and objectives as follows:

The Department of Corrections is dedicated to public safety and trust by holding adult and juvenile offenders accountable for their actions against victims through custody, supervision, treatment, work, restitution and still development.

DOC 2004-2005 Goals and Objectives. Goal 3: To provide accurate, timely information and support that contributes to the restoration of victims of crime. Objective 3: Increase awareness of the needs of crime victims and respond to their concerns.

### **A. VOD Initial Criteria**

1. Only victims of offenders under Department supervision may initiate the Victim-Offender Dialogue process. All requests from victims will be forwarded to the Victim Information Specialist.
  - a) The offender's participation will be voluntary.
  - b) The program or facility administrator, or designee, will meet with the offender to discuss participation in the Victim-Offender Dialogue process.
  - c) The program or facility administrator, or designee, will consider the following issues before rendering a decision:
    - the safety of all participants;
    - the disciplinary record of the offender; and
    - the stability of the offender.
  - d) The Victim-Offender Dialogue generally will not be approved in cases of domestic violence or stalking. The Victim Information Specialist may consider exceptions to this rule on a case-by-case basis after separate consultations with the victim, the offender, and at least one person directly involved in the offender's treatment plan.
  - e) Participants must be at least 18 years old. Parents or legal guardians of victims under 18 may represent the minor's interest in a Victim-Offender Dialogue.
2. Each victim and offender will be encouraged to have a support person throughout the process.
  - a) Support persons must pass background checks.
  - b) Attorneys who provide legal representation for the crime relevant to the VOD generally may not act as support persons. Exceptions may apply.
3. Victims and facilitators will be responsible for their own expenses associated with the Victim-Offender Dialogue.

4. The victim, the offender, and the facilitator may end the VOD process at any time.
5. The program or facility administrator may cancel the VOD for good cause after consultation with the Victim Information Specialist.
6. The offender may not participate in the VOD unless he/she admits guilt and accepts responsibility for the crime as described in the final judgment and pre-sentence investigation.
7. Offenders involved in a legal appeal may not participate in the VOD.
8. The victim and offender will agree in advance that they will complete an initial evaluation immediately after the VOD and a follow-up evaluation within three months.
9. VOD participation will not be noted in offender files nor reported to the Board of Pardons and Parole.

**A. VOD Preparation Process**

1. The victim and offender will sign the Release of Liability form (see Attachment A) agreeing that:
  - a) They are participating in the process voluntarily.
  - b) They will not hold the Department liable for any negative consequences of the Victim-Offender Dialogue process.
2. The victim and offender will sign the Acknowledgment of Understanding (see Attachment B) to indicate they understand the purpose and potential outcomes of the Victim-Offender Dialogue process.
3. The Volunteer Coordinator will conduct initial interviews with the victim and offender to evaluate their emotional stability and expectations.
4. The victim and facilitator will receive advance notice of the facility's rules and entrance procedures.
5. The victim will be encouraged to take a facility tour prior to the dialogue session.

**B. VOD Dialogue**

1. The actual meeting will occur at a facility location designated by the program or facility administrator.
2. All dialogue participants will be searched upon entrance to the facility.
3. A security officer will be stationed immediately outside the VOD meeting room.
4. The facilitator(s) will brief the offender and victim separately before the dialogue occurs and debrief both parties separately afterward. The offender will be debriefed first.
5. The program or facility administrator will monitor the offender after the dialogue to determine if he/she has experienced emotional consequences that require intervention.

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### **C. VOD Follow-up**

1. The facilitator will complete a separate debriefing in person or by telephone with each participant within one week of the dialogue.
2. The facilitator will complete a second follow-up evaluation with each party within three months of the dialogue.

### **D. VOD Facilitators**

1. Facilitators will meet all qualifications for Victim-Offender Dialogue as established by the Department (see Attachment B).
2. Facilitators will meet the requirements of *DOC Policy 1.7.1, Volunteers and Internships*. They will complete the Volunteer/Internship Service Agreement, Attachment A (see Attachment C).
3. The Volunteer Coordinator will assign all dialogue cases to facilitators.

## **VI. CLOSING:**

Questions concerning this policy should be directed to the Department's Victim Information Specialist.

## Montana Department of Corrections

### Victim-Offender Dialogue

#### RELEASE OF LIABILITY

The Montana Department of Corrections supervises adult male and female felony offenders in a variety of prisons, other secure facilities and community placements.

I understand that the Department of Corrections staff and its contractors will do everything possible to prevent breaches of security or safety during Victim-Offender Dialogue. However, I fully understand that entry into any facility for the purpose of participating in Victim-Offender Dialogue involves inherent risks regardless of all safety measures that may be taken by the Department staff and/or contractors.

In consideration of the Department's agreement to allow my entry into one of these facilities, I agree to accept responsibility for any loss, damage, or injury that occurs to me during my visit that is not the result of fraud, willful injury to a person or property or the willful or negligent violation of a law by an offender, trustee, employee or agent of the Department of Corrections.

In consideration for the permission given to the undersigned person by \_\_\_\_\_ to participate in the Victim Offender Dialogue (VOD), the undersigned person, his/her agents, assigns and third parties acting in concert or privacy with him/her (herein, "the undersigned person"), hereby release, discharge, and "hold harmless" \_\_\_\_\_, their respective officers, agents, servants, mediators, and/or employees from any and all liability arising in connection with the undersigned person's participation in the Montana Department of Corrections Victim-Offender Dialogue (VOD) program. Further, the undersigned person specifically releases and waives any and all claim(s), against \_\_\_\_\_ from the acts or omissions of said agency, its staff or volunteer mediator (s) regardless whether such act (s) or omission (s) arise (s), in whole or in part, from the negligence of said agency, its staff or volunteer facilitators (s).

The undersigned person further affirms that he/she understands:

1. All parties must meet the policy guidelines, including agreement with the purpose and goals of the VOD process.
2. All parties declare it is not their intention to cause physical or emotional harm to the victim, offender or any party associated with the dialogue process.
3. All parties declare participation in VOD is voluntary and non-coercive. Furthermore any party to the process has the right to discontinue participation at any time and for any reason.
4. All parties declare the facilitator will make the final determination as to the appropriateness of any dialogue or the parties thereto.
5. All offenders must admit guilt and accept responsibility for the crime of record as well as adhere to the process procedure and preparation guidelines.

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6. All offenders must admit they have been advised of and are aware of their legal rights, both state and federal, and this dialogue process will not violate any of their rights under the laws of the State of Montana or of the United States of America.

All parties understand the facilitator is not a legal advisor and is not to provide legal advice to any party involved in the dialogue.

Participation by the offender in VOD is not expected to affect the offender's Prison, Parole, State Jail or Community Supervision status. Participation by the offender cannot be expected to enhance any chances for commutation of sentence or for any kind of clemency action. VOD is a personal process between victim and offender and is not intended to have any bearing on the participating offender's status in the judicial, appellate or corrections systems.

The Victim-Offender Dialogue will not be electronically recorded.

All documentation regarding VOD is confidential and will not become a part of the offender's prison/parole/community supervision review file. Only appropriate staff and assigned facilitators will have access to the VOD files in the normal course of the VOD process; however, disclosure of some records may be required by subpoena or by a decision of the Attorney General under the Public Information (Open Records) Act.

All parties understand the necessity that the dialogue be confidential and agree that they will not call the facilitator who serves on process or any party related to the process to act as witness in any court of competent jurisdiction to testify to facts concerning or relating to the subject matter here being addressed, and agree that neither will they subpoena video/audio tapes, documents, notes, testimony or other information about the dialogue. However, the parties also understand that other actors, outside the control of the parties to the dialogue, may subpoena testimony or records, or request release of information under Public Records Law (2-6-101 MCA).

Public record information (such as name of offender, information containing court transcripts, judgment and sentence, offender status...etc.) is not considered confidential.

All parties must agree to participate in the preparation, follow-up and evaluation process.

During the preparation and dialogue phases of the process, all parties must agree to refrain from engaging in any relationship with the media (newspapers, periodicals, TV, Internet...etc.) according to principles of mutual respect and sensitivity necessary to establish an environment for constructive dialogue. The victim, the offender, the facilitator and the Department of Corrections must agree in writing to any exception to this policy.

All parties declare they are of lawful age and legally competent and empowered to sign this affirmation, waiver and release.

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Victim

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Offender

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Facilitator

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NOTARY ACKNOWLEDGMENT FOR THE STATE OF MONTANA SWORN TO AND  
SUBSCRIBED before me by said \_\_\_\_\_,

\_\_\_\_\_ on this the \_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR  
THE STATE OF MONTANA

*Attachment A*

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## Montana Department of Corrections Victim-Offender Dialogue

### FACILITATOR QUALIFICATIONS

Volunteer facilitators for the Pilot Program will be selected by the Victim Information Specialist based on a combination of formal training, mediation experience, experience with victims/offenders and personal commitment to the principles of restorative justice.

For purposes of the Pilot Program, volunteer facilitators will be required to have completed the following:

- At least 15 hours of basic victim-offender mediation/dialogue training under “qualified” trainers, as defined by the Victim-Offender Mediation Association and/or the National Institute of Corrections, the Montana Mediation Association, or a combination. An example of this training is *Introductory Victim Offender Mediation Training In Property Crimes and Minor Assaults*, conducted by Mark Umbreit, founding Director of the Center for Restorative Justice & Peacemaking in the School of Social Work at the University of Minnesota. This training was offered September 21-23 in Bozeman, Montana under the Community Mediation Center. 20 hours.
- Completion of the *Advanced Victim Offender Dialogue Training In Crimes of Severe Violence* conducted in Helena, Montana, September 27-October 1, 2004 by Eddie Mendoza and Anna Rose Tangredi, Texas Department of Criminal Justice. 30 hours.
- Participation in at least two actual victim-offender dialogues (not role plays) with adult or juvenile offenders. These may be pre-conviction or post-conviction and may involve misdemeanor or felony crimes.
- A volunteer facilitator in a Victim-Offender Dialogue case that involves personal injury, death, or threat of injury or death, must have participated as a co-facilitator in at least one similar Victim-Offender Dialogue with a facilitator experienced in mediating crimes of violence.

In addition, volunteer facilitators must:

- Abide by all Department procedures and policies governing the process: 1.7.1 Volunteers and Internships; 1.8.1 Victim Rights and Notification; and 1.8.2 Victim-Offender Dialogue.
- Sign the Department’s Volunteer/Internship Service Agreement, attached to policy 1.7.1 as Amendment A.
- Provide the Victim Information Specialist with a resume of their mediation experience and a statement of their personal commitment to the process.
- Participate in interviews with the Victim Information Specialist and others involved in the Victim-Offender Dialogue process, in order to (1) discuss his/her mediation skills and personal style and personal experiences as victims, if applicable, and to (2) discover attitudes or behaviors that might enhance or detract from the success of the process.
- Maintain close contact with the Victim Information Specialist and other Department of Corrections staff during the Victim-Offender Dialogue preparation process and follow-up. The



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Victim Information Specialist agrees to be readily available for consultation at the facilitator's request.

The Department of Corrections retains the discretion to approve or not approve a particular volunteer facilitator for any or all Victim-Offender Dialogues under its jurisdiction.

*Attachment B*

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## DEPARTMENT OF CORRECTIONS VOLUNTEER/INTERSHIP SERVICE AGREEMENT

I, \_\_\_\_\_ (*print name*), do agree to the following conditions of providing volunteer or internship services for the Department of Corrections:

1. I agree to engage only in those assignments or activities that have been assigned or authorized by the Volunteer Coordinator or internship supervisor.
2. I will not present myself as a representative or paid employee of the Department.
3. I do not expect to receive monetary compensation for my services.
4. I agree to avoid undue familiarity. If an offender has a problem that is beyond the scope of my position, I will direct the offender to the appropriate agency staff. I will not pursue a relationship with an offender that is outside my assigned responsibility.
5. I agree to bring nothing in or take anything out for any offender except work materials that have been approved by the Volunteer Coordinator or my internship supervisor.
6. I will report without delay to the Volunteer Coordinator or internship supervisor any condition, activity, or unusual behavior that may be unethical, illegal, dangerous or potentially dangerous.
7. I agree to meet attendance and performance requirements.
8. I understand that I am responsible, and therefore liable, for my own actions, and agree to use due care and caution when providing volunteer or internship services.
9. I agree not to report for volunteer or internship activities under the influence of alcohol or drugs.
10. I agree to accept only those assignments and/or engage in only those activities that have been assigned or authorized and that supplement, but do not supplant, the work of classified Department employees.
11. I understand that offenders under Department jurisdiction have been convicted of felony criminal activity, and that any offender I may have contact with may attempt to take unfair advantage of me. If taken hostage, I understand that the same rules apply to me as to any Department employee.

\_\_\_\_\_  
VOLUNTEER'S SIGNATURE

\_\_\_\_\_  
DATE

DOC 1.7.1 Attachment A